

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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OPERATIVE PLASTERERS and CEMENT MASONS'  
INTERNATIONAL ASSOCIATION LOCAL 262 f/n/a 530  
and THE TRUSTEES OF THE OPERATIVE PLASTERERS  
and CEMENT MASONS' INTERNATIONAL  
ASSOCIATION LOCAL 262 f/n/a 530 ANNUITY FUND,  
WELFARE FUND, APPRENTICESHIP TRAINING  
FUNDS and PENSION FUND f/n/a LOCAL 60 PENSION  
FUND,

Plaintiffs,

-against-

HUXLEY CONSTRUCTION CORP. and  
R.F.A.CONSTRUCTION GROUP CORP.

Defendants.

ANSWER

08 CV 5659  
(Berman, J.)

-----X  
Defendants HUXLEY CONSTRUCTION CORP. ("Huxley") and  
R.F.A.CONSTRUCTION GROUP CORP, ("RFA") (collectively "Defendants") by and  
through their attorneys MELTZER, LIPPE, GOLDSTEIN & BREITSTONE, LLP., answering  
the Complaint of the Plaintiffs allege the following;

1. Defendants neither admit nor deny the allegations of Paragraph 1 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
2. Defendants neither admit nor deny the allegations of Paragraph 2 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
3. Defendants neither admit nor deny the allegations of Paragraph 3 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
4. Defendants neither admit nor deny the allegations of Paragraph 4 of the Complaint as they are not allegations of fact, but rather constitute a prayer for relief.

5. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Complaint.
6. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Complaint.
7. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 of the Complaint.
8. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Complaint.
9. Defendants neither admit nor deny the allegations of Paragraph 9 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
10. Defendants neither admit nor deny the allegations of Paragraph 10 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
11. Defendant Huxley admits the allegations in Paragraph 11 of the Complaint.
12. Defendant R.F.A. denies the allegations Paragraph 12 of the Complaint.

**AS TO THE FIRST CLAIM FOR RELIEF**

13. Defendant Huxley denies the allegations of Paragraph 13 of the Complaint, except admits it executed a CBA with the Union the terms of which may be in dispute.
14. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14 of the Complaint.
15. Defendant Huxley denies the allegations of Paragraph 15 of the Complaint.
16. Defendant Huxley denies the allegations of Paragraph 16 of the Complaint.
17. Defendant Huxley denies the allegations of Paragraph 17 of the Complaint.
18. Defendant Huxley denies the allegations of Paragraph 18 of the Complaint.

19. Defendant Huxley denies the allegations of Paragraph 19 of the Complaint.

20. Defendant Huxley denies the allegations of Paragraph 20 of the Complaint.

**AS TO THE SECOND CLAIM FOR RELIEF**

21. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “20” of this Answer as if more fully set forth at length herein.

22. Defendant Huxley denies the allegations of Paragraph 22 of the Complaint, except admits it executed a CBA with the Union the terms of which may be in dispute. Defendant R.F.A. denies knowledge or information sufficient to form a belief as the truth of Paragraph 22 of the Complaint.

23. Defendants deny the allegations of Paragraph 23 of the Complaint.

24. Defendants deny the allegations of Paragraph 24 of the Complaint.

25. Defendants deny the allegations of Paragraph 25 of the Complaint.

26. Defendants deny the allegations of Paragraph 26 of the Complaint.

27. Defendants deny the allegations of Paragraph 27 of the Complaint.

28. Defendants deny the allegations of Paragraph 28 of the Complaint.

29. Defendants deny the allegations of Paragraph 29 of the Complaint.

30. Defendants deny the allegations of Paragraph 30 of the Complaint.

31. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 31 of the Complaint.

32. Defendants deny the allegations of Paragraph 32 of the Complaint.

33. Defendants deny the allegations of Paragraph 33 of the Complaint.

**AS TO THE THIRD CLAIM FOR RELIEF**

34. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “33” of this Answer as if more fully set forth at length herein.
35. Defendants deny the allegations of Paragraph 35 of the Complaint.
36. Defendants neither admit nor deny the allegations of Paragraph 36 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
37. Defendant Huxley denies the allegations of Paragraph 37 of the Complaint, except admits it executed a CBA with the Union the terms of which may be in dispute.
38. Defendant R.F.A. denies knowledge or information sufficient to form a belief as the truth of Paragraph 37 of the Complaint.
39. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 38 of the Complaint.
40. Defendants deny the allegations of Paragraph 39 of the Complaint.
41. Defendants deny the allegations of Paragraph 40 of the Complaint.
42. Defendants deny the allegations of Paragraph 41 of the Complaint.
43. Defendants deny the allegations of Paragraph 42 of the Complaint.
44. Defendants deny the allegations of Paragraph 43 of the Complaint.
45. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 44 of the Complaint.
46. Defendants deny the allegations of Paragraph 45 of the Complaint.

**AS TO THE FOURTH CLAIM FOR RELIEF**

47. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “45” of this Answer as if more fully set forth at length herein.
48. Defendants deny the allegations of Paragraph 47 of the Complaint.
49. Defendants neither admit nor deny the allegations of Paragraph 48 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
50. Defendant Huxley denies the allegations of Paragraph 49 of the Complaint, except admits it executed a CBA with the Union the terms of which may be in dispute. Defendant R.F.A. denies knowledge or information sufficient to form a belief as the truth of Paragraph 49 of the Complaint.
51. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 50 of the Complaint.
52. Defendants deny the allegations of Paragraph 51 of the Complaint.
53. Defendants deny the allegations of Paragraph 52 of the Complaint.
54. Defendants deny the allegations of Paragraph 53 of the Complaint.
55. Defendants deny the allegations of Paragraph 54 of the Complaint.
56. Defendants deny the allegations of Paragraph 55 of the Complaint.
57. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 56 of the Complaint.
58. Defendants deny the allegations of Paragraph 57 of the Complaint.

**AS TO THE FIFTH CLAIM FOR RELIEF**

59. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “57” of this Answer as if more fully set forth at length herein.
60. Defendants neither admit nor deny the allegations of Paragraph 59 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
61. Defendants deny the allegations of Paragraph 60 of the Complaint.
62. Defendants deny the allegations of Paragraph 61 of the Complaint.
63. Defendants deny the allegations of Paragraph 62 of the Complaint.
64. Defendants deny the allegations of Paragraph 63 of the Complaint.
65. Defendants neither admit nor deny the allegations of Paragraph 64 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.
66. Defendants deny the allegations of Paragraph 65 of the Complaint.
67. Defendants deny the allegations of Paragraph 66 of the Complaint.
68. Defendants deny the allegations of Paragraph 67 of the Complaint.
69. Defendants deny the allegations of Paragraph 68 of the Complaint.
70. Defendants deny the allegations of Paragraph 69 of the Complaint.
71. Defendants deny the allegations of Paragraph 70 of the Complaint.
72. Defendants deny the allegations of Paragraph 71 of the Complaint.
73. Defendants deny the allegations of Paragraph 72 of the Complaint.
74. Defendants deny the allegations of Paragraph 73 of the Complaint.

**AS TO THE SIXTH CLAIM FOR RELIEF**

75. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “20” of this Answer as if more fully set forth at length herein.

**AS TO THE SEVENTH CLAIM FOR RELIEF**

76. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “20” of this Answer as if more fully set forth at length herein.

**AS TO THE EIGHTH CLAIM FOR RELIEF**

77. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “20” of this Answer as if more fully set forth at length herein.

**AS TO THE SIXTH CLAIM FOR RELIEF**

78. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “73” of this Answer as if more fully set forth at length herein.

79. Defendants neither admit nor deny the allegations of Paragraph 75 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.

80. Defendants neither admit nor deny the allegations of Paragraph 76 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.

81. Defendants neither admit nor deny the allegations of Paragraph 77 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.

82. Defendants neither admit nor deny the allegations of Paragraph 78 of the Complaint, as they are not allegations of fact, but rather constitute a legal conclusion.

- 83. Defendants deny the allegations of Paragraph 79 of the Complaint.
- 84. Defendants deny the allegations of Paragraph 80 of the Complaint.
- 85. Defendants deny the allegations of Paragraph 81 of the Complaint.
- 86. Defendants deny the allegations of Paragraph 82 of the Complaint.
- 87. Defendants deny the allegations of Paragraph 83 of the Complaint.

**AS TO THE SEVENTH CLAIM FOR RELIEF**

- 88. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “83” of this Answer as if more fully set forth at length herein.
- 89. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 85 of the Complaint.
- 90. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 86 of the Complaint.
- 91. Defendants deny the allegations of Paragraph 87 of the Complaint.
- 92. Defendants neither admit nor deny the allegations of Paragraph 88 of the Complaint as they are not allegations of fact, but rather constitute a prayer for relief.
- 93. Defendants deny the allegations of Paragraph 89 of the Complaint
- 94. Defendants deny the allegations of Paragraph 90 of the Complaint
- 95. Defendants deny the allegations of Paragraph 91 of the Complaint

**AS TO THE EIGHTH CLAIM FOR RELIEF**

- 96. Defendants repeat and reallege each and every response set forth in Paragraphs “1” through “91” of this Answer as if more fully set forth at length herein.



97. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 93 of the Complaint.

98. Defendants deny the allegations of Paragraph 94 of the Complaint.

99. Defendants deny the allegations of Paragraph 95 of the Complaint.

100. Defendants deny the allegations of Paragraph 96 of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

101. Payment.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

102. Estoppel.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

103. Some or all of the claims alleged in the Complaint fail to set forth a claim for which relief may be granted.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

104. Waiver.

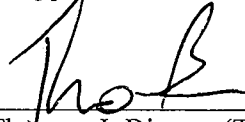
**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

105. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

WHEREFORE, it is respectfully requested that the Complaint of the Plaintiffs be dismissed in its entirety, and that these Defendants be awarded such other and further relief as this Court deems just and proper.

Dated: Mineola, N.Y.  
August 8, 2008

Meltzer, Lippe, Goldstein & Breitstone, LLP

By:   
Thomas J. Bianco (TB-2019)  
Attorneys for Defendants  
190 Willis Avenue  
Mineola, N.Y. 11501  
(516) 747-0300

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X\  
OPERATIVE PLASTERERS and CEMENT MASONS'  
INTERNATIONAL ASSOCIATION LOCAL 262 f/n/a 530  
and THE TRUSTEES OF THE OPERATIVE PLASTERERS  
and CEMENT MASONS' INTERNATIONAL  
ASSOCIATION LOCAL 262 f/n/a 530 ANNUITY FUND,  
WELFARE FUND, APPRENTICESHIP TRAINING  
FUNDS and PENSION FUND f/n/a LOCAL 60 PENSION  
FUND,

Plaintiffs,

**AFFIDAVIT OF SERVICE**

08 CV 5659  
(Berman, J.)

-against-

HUXLEY CONSTRUCTION CORP. and  
R.F.A.CONSTRUCTION GROUP CORP.

Defendants.  
-----X

STATE OF NEW YORK )

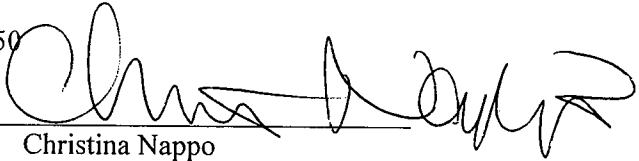
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COUNTY OF NASSAU )

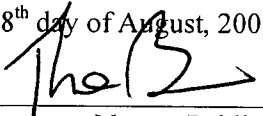
Christina Nappo, being duly sworn, deposes and says: that I am not a party to this action, I am over the age of eighteen (18) and reside in the County of Nassau:

That on the 8<sup>th</sup> day of August, 2008, I served a true copy of the attached **ANSWER** via federal express, overnight mail **and** first class postage-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York upon the following individual(s) set forth below to the last known address of:

Danielle M. Carney, Esq.  
Barnes, Iaccarino, Virginia, Ambinder  
& Sheperd, PLLC  
3 Surrey Lane  
Hempstead, N.Y. 11550

  
Christina Nappo

Sworn to before me this  
8<sup>th</sup> day of August, 2008

  
Notary Public

THOMAS J. BIANCO  
Notary Public, State of New York  
No. 4894771

441075-1 Qualified in Queens County  
Commission Expires April 20, 2012